in Liberia, including diplomatic engagement, support for the West Africa peacekeeping force, humanitarian assistance, and assistance for demobilizing troops and for the resettlement of refugees.''

I too, believe that it is in the interest of the United States to support this peace agreement, both diplomatically and financially. The United States has a special responsibility towards Liberia. Founded in the early 19th century by freed American slaves, the United States and Liberia have had almost 150 years of continued friendship. As pointed out in a position paper sent to me by Friends of Liberia, in World War II, American soldiers used Liberian airfields and ports as a primary base to supply the battlefields in North Africa and Europe. During the cold war, Liberia was often our only reliable ally in Africa, serving as a listening post and headquarters to the United States intelligence services. At the United Nations, Liberia has been a dependable American ally, consistently voting in support of United States positions, even when such actions were unpopular among other developing nations.

If we neglect our historic relationship with Liberia, we will jeopardize, if not lose, our reliable foothold in Africa. A limited diplomatic reaction to this peace agreement would reflect poorly on our commitment to peace and democracy on the African Continent, and would hinder future United States diplomatic and commercial interests, among others, in the region.

Given the current climate in Congress to paralyze humanitarian assistance, I believe that this situation offers an important opportunity to prove to critics of U.S. foreign aid that a small investment in seeking peace through diplomacy will yield significant returns. By heightening our diplomatic involvement and providing modest financial support to the peace process, we can help break the cycle of humanitarian need that will only continue if this disastrous war is not resolved.

American support can make the difference in securing a sustainable peace in Liberia and beyond. The international community looks to the United States as having the closest ties to Liberia, thus having the responsibility of taking the first step in assisting this peace process. Once the United States takes the lead, the European Community, Japan and other governments with historical relationships with Liberia, as well as members from the private and public sectors, are likely to follow.

Given our special relationship towards Liberia, our commitment to promoting peace, democracy, trade and human rights in West Africa, and our position in the international community as the only remaining superpower, I conclude that it is in the interest of the United States to take the initiative to develop and implement a coalition to sustain the peace in Liberia. We must move quickly to provide the significant support, in terms of diplomatic engagement and where possible, the allocation of resources, to assist the Liberians as they move through this delicate period of transition to peace and democracy.

GIVEAWAY TO SPECIAL INTERESTS IN REPUBLICAN STUDENT LOAN BILL

Mr. KENNEDY. Mr. President, earlier this week the Republican majority in the Senate Labor and Human Resources Committee voted to cut $10.8 billion from student loans over the next 7 years. This bill is bitter news for students and their families, who will see their student loan costs rise by as much as $7,800 per family. But the champagne corks are popping for banks and other special interests in the student loan industry, because the same Republican majority also voted a $1.8 billion sweetheart deal for them.

Tucked in the legislation is a series of provisions that sign over $1.8 billion in Federal funds to the guaranty agencies in the student loan program. That $1.8 billion should be used to ease the burden of the budget cuts on students and their families. It should not be used to bestow an unjustified windfall on the special interest student loan industry.

This new windfall comes with no strings attached. Guaranty agencies can use it to build new palaces for their headquarters, or to pad the salaries of their executives, which for one official already exceeds $600,000 a year. They can even literally take the money and run. Under current law, if a guaranty agency goes out of business, the reserve funds that it has accumulated under the Federal student loan program are returned to the American taxpayer. Under this new giveaway, the officers and directors of a guaranty agency could close down the agency and keep the funds for themselves.

Forty-one guaranty agencies participate in the Federal student loan program. They function as middlemen between the banks, who loan funds to students, and the Federal Government, which bears the risk on the loans. The guaranty agencies maintain records on student borrowing, collect on defaulted loans, and advance funds to lenders for defaulted loans. The guaranty agencies are reimbursed by the Federal Government for those advances. The agencies are then permitted to pursue the defaulted debts, and keep 27 cents of every dollar over and above the reimbursed amount.

In the course of the past three decades, the guaranty agencies have accumulated $1.8 billion in what are called reserves. These reserves began with seed money advanced to the guaranty agencies by the Federal Government in the early years of the loan program, of which $40 million now remains. Since then, the agencies have accumulated $1.8 billion in additional reserves from other sources. Ninety-eight percent of those reserves come from insurance premiums paid by students under the Federal student loan program, payments received from the Federal Government for default claims and administrative expenses, and investment earnings on the reserve funds.

The reserves were originally intended as a financial cushion to enable the guaranty agencies to have enough funds to cover defaults in the student loan program. Now, however, the Federal Government bears virtually all the risk on the loans, and the cushion is no longer needed. There is no doubt that the reserves are federal funds. They certainly do not belong to the guaranty agencies. If the Federal Government were to take back the reserves, the Congressional Budget Office would score the reclaimed reserves as a savings to the taxpayer of $1.8 billion.

The Republican student loan bill, however, does exactly the opposite. Rather than reclaiming the reserves in order to reduce cuts in student aid or to reduce the deficit, the bill turns over to the guaranty agencies—no strings attached—all but the $40 million of taxpayer funds originally given to the agency reserve accounts. Secretary of Education Riley has called this giveaway ''an alarming development that would further exacerbate the current problems in the student loan industry.''

I urge the Senate to block this $1.8 billion Republican raid on the student reserve funds. It is unconscionable for the Republican majority to slash $7.6 billion from student loans, while sneaking $1.8 billion out the back door and into the pockets of the very people who have profited for more than 30 years on the backs of students. This is corporate welfare of the worst kind, and the Senate should reject it.

I ask unanimous consent that a letter on this issue from Secretary Riley and a memorandum from General Counsel Judith Winston of the Department of Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
Washington, DC, September 28, 1995.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

DEAR SENATOR KENNEDY: I am writing to express my serious concern about a particular provision of the Student Loan amendments recently passed by the Senate Committee on Labor and Human Resources as part of its budget reconciliation package. In particular, under the guise of strengthening guaranty agency reserves, Section 1004(e)(2) of the bill would have the effect of giving away approximately $1.8 billion in Federal assets to non-profit and State guaranty agencies.

An analysis of the effect of the proposed change on the Federal interest in the guaranty agency reserve funds by the department's General Counsel is attached for your consideration. In my view, enactment of this

change would be an alarming development that would further exacerbate the current problems in the student loan program. I urge the Committee to reconsider this decision.

I am sending an identical letter to Senator Kassebaum.

Yours sincerely,

RICHARD W. RILEY.

Attachment.

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, September 28, 1995.

MEMORANDUM

To: The Secretary
From: Judith A. Winston, General Counsel
Subject: Guaranty Agency Reserves

Earlier this week, the Senate Committee on Labor and Human Resources approved certain changes to the statutory provisions relating to the Federal Family Education Loan (FFEL) Program in connection with the budget reconciliation bill. One of the approved provisions would make significant changes in the status and ownership of guaranty agency reserve funds. If enacted, these changes would cede Federal ownership of more than $1.7 billion in funds and assets to state or private non profit agencies.

In particular, the bill passed by the Committee would make significant changes to §422(g) of the Higher Education Act of 1965, as amended (HEA). Currently §422(g) reflects numerous Federal court decisions that the reserve funds of the guaranty agencies are Federal property which is held by the guaranty agency as a trustee of the funds for the general public. *See Puerto Rico Higher Education Assistance Corp.* v. *Riley*, 10 F.3d 847, 851 (D.C. Cir. 1993); *State of Colorado* v. *Cavazos*, 962 F.2d 968, 971 (10th Cir. 1992); *Rhode Island Higher Education Assistance Auth.* v. *Secretary, U.S. Dep't of Education*, 929 F.2d 844 (1st Cir. 1991); *Great Lakes Higher Education Corp.* v. *Cavazos*, 911 F.2d 10 (7th Cir. 1990); *Education Assistance Corp.* v. *Cavazos*, 902 F.2d 617, 627 (8th Cir. 1990), *cert. denied* U.S. , 111 S.Ct. 246 (1990); *Ohio Student Loan Com'n* v. *Cavazos*, 902 F.2d 894 (6th Cir. 1990), *cert. denied* U.S. , 111 S.Ct. 246 (1990); *South Carolina State Education Assistance Auth Corp.* v. *Cavazos*, 897, F.2d 1272 (4th Cir. 1990), *cert. denied* U.S. , 111 S.Ct 243; *Delaware* v. *Cavazos*, 723 F.Supp. 234 (D. Del. 1989), *aff'd without opinion*, 919 F.2d 137 (3d Cir. 1990). Earlier this month, the United States District Court for the District of Idaho reaffirmed the holding of these earlier decisions that guaranty agencies do not have (and have never had) a property right in their reserve funds. Instead, that court held that the guaranty agencies' reserve funds are Federal property and are subject to the control of the Secretary of Education. *Student Loan Fund of Idaho* v. *Riley*, Case No. CV 94–0413–S–LMB (D. Ida., Sept. 14, 1995).

The bill would essentially give away the overwhelming amount of Federal property included in the guaranty agency reserve funds. Most importantly, the bill would redefine the term ''reserve fund'' to mean ''the Federal portion of a reserve fund''. *See* §1004(e)(2) of the Committee bill, p. 38, lines 14–16. The bill would then limit the Federal property to an amount calculated under the formula in §422(a)(2) of the HEA. The formula in §422(a)(2) of the HEA would, in most cases, limit the ''Federal portion'' of the reserve fund to the amount of Federal advances maintained by the guaranty agency plus interest. As of September 30, 1994, the amount of outstanding Federal advances was $40 million out of total guaranty agency reserves (all of which came from federal sources or under Federal authority) of more than $1.8 billion. *See* FY 1993 Loan Programs Data Book, at 65, 67. Thus, the Federal government would be relinquishing ownership and control of more than $1.7 billion in federal funds and property.

Enactment of these proposed changes to the definition of ''reserve fund'' would also effectively end Federal control over the uses of the reserve funds by the agencies. If the reserve funds are the property of the guaranty agency and the agency uses those funds for purposes unrelated to the FFEL program, the Department would have no authority to take action against the agency. Thus, the Department would be unable to take action against an agency that used funds intended to be used to pay lender claims on elaborate offices or high executive salaries. If this provision were enacted, the strong possibility exists that an agency could choose to use reserve funds for non-program purposes and be unable to pay lenders' claims. At that point, the lender would then be able to demand payment from the Department under §432(o) of the HEA. The Department would have to use taxpayer funds to pay the lenders.

This proposal would also provide an incentive for some guaranty agencies to leave the program. An agency which left the program would be able to take its reserve fund (minus Federal advances and interest) with it and use it for purposes unrelated to higher education or student loans.[1] Moreover, those agencies which have already established loan servicing and secondary market operations could use the reserve funds to compete with private parties which provide services in this area.

NOMINATION OF JUSTICE JAMES DENNIS FOR THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

Mr. HATCH. Mr. President, I would like to correct a matter that arose in yesterday's discussion on the nomination of Justice Dennis. As the committee investigation found, a case can be made that Justice Dennis should have recused himself and that he should have notified the committee of the problem. My staff has told me that it communicated these conclusions to interested Senators. But my staff has informed me that it never presented any conclusions to Senators concerning what the committee would have done had it known of the Times-Picayune information before it reported the nomination to the floor. I can appreciate how some might have misinterpreted these findings but I wanted to make the matter clear for the record.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, September 28, the Federal debt stood at $4,954,794,272,486.85. On a per capita basis, every man, woman and child in America owes $18,808.48 as his or her share of that debt.

THE FINAL DAY OF BOSTON GARDEN

Mr. KERRY. Mr. President, I come to the floor of the Senate today to convey my thoughts on the closing of the fabled Boston Garden in Boston, Massachusetts.

To almost all of my constituents in Massachusetts, the Boston Garden represents the best in the world of sports. Many championship battles have been waged within the hallowed walls of this magnificent structure. Some were lost, most were won, but all are captured forever in the hearts and minds of the legions of Boston sports fans.

Just ask any hockey player from Northeastern University, Boston College, Harvard University or Boston University what the Boston Garden means to them and you will hear war stories about two Mondays every February where seasons are made or broken during the Beanpot Championship.

Just ask any of the high school athletes, whose teams were good enough to persevere through endless qualifying playoff rounds in order to play for a league championship on the Boston Bruins' ice or the Celtics' parquet floor, what the Boston Garden means to them and you will hear innumerable accounts of a dream come true.

Just ask the scores of everyday people, who file into the Garden to sit together knee-to-knee and elbow-to-elbow, what the Boston Garden means to them, and you will hear recollections of rumors, myths, legends, and lore.

Gallery gods, leprechauns, ghosts, and other beings are rumored to inhabit the Garden and wreak havoc with the fate of visiting, unfriendly teams. Some say they are responsible for turning up the heat on the L.A. Lakers and trying to fog-out and eventually powering down the Edmonton Oilers. Others claim they are to be credited with the infamous dead spots in the parquet and the impossible bounces of the puck off the boards.

Other teams feared coming to the Garden. They declared it archaic and decrepid with abysmal accommodations and playing conditions. But Boston fans know the truth, they feared coming to the Garden because they hated to lose.

Legends abound in the Boston Garden, and historical significance seemingly is a basic element of every event that has taken place there.

On election night in 1960, then-Senator John KENNEDY delivered his first campaign address in the city of Boston at the Garden. An estimated 1 million people flocked to the area surrounding the Garden and a precious few 25,000 were fortunate enough to be inside to hear his words. Many other great politicians of this century have addressed

[1] Those agencies which are tax exempt non profits under §501(c)(3) of the Internal Revenue Code would have to use the funds in accordance with the requirements of that section. However, some agencies have already transferred significant portions of reserve funds to associated non-profit companies which may not be tax exempt and thus not bound by those restrictions. Moreover, some state laws appear to allow non-profit corporations which dissolve to distribute remaining assets to members (generally the company's directors) in certain circumstances. *See* 805 ILCS 105/112.16 (Illinois); A.R.S. §10–2422 (Arizona). In regard to state agencies, it appears that a State could close the guaranty agency, put the reserve funds into its general fund for use for other purposes and leave the Department with the responsibility for paying lenders.